

EXHIBIT “1”

EXHIBIT “1”



MORAN BRANDON
BEN DAVID MORAN
ATTORNEYS AT LAW

630 SOUTH 4TH STREET
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REQT

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Attorneys for TAMI KEELE

DISTRICT COURT**CLARK COUNTY, NEVADA**

TAMI KEELE, individually, and GARRETT
KEELE, individually,

Plaintiff,

vs.

ALBERTSONS, LLC, a Delaware limited-liability
company, DOES I-X, and ROE CORPORATIONS
I-X, inclusive,

Defendants.

) CASE NO. A-16-744521-C
) DEPT. NO. XVI

) **REQUEST FOR EXEMPTION FROM**
) **ARBITRATION**

Plaintiffs TAMI KEELE and GARRETT KEELE, hereby requests the above-captioned
matter be exempted from Arbitration pursuant to Nevada Arbitration Rules 3 and 5, as this case:

1. _____ presents a significant issue of public policy;
2. X involves an amount in issue in excess of \$50,000 exclusive of interest and costs;
3. _____ presents unusual circumstances, which constitute good cause for removal from the program.

1 **I. FACTUAL BACKGROUND**

2
3 Plaintiffs filed a Second Amended Complaint against Defendant in the Eighth Judicial
4 District court on January 27, 2017. On October 4, 2016, Defendant filed an Answer to Plaintiffs'
5 Complaint. The filing of Plaintiffs' arbitration exemption request is timely and in accordance with
6 Nevada Arbitration Rule 5(A).
7

8 On July 20, 2015 Plaintiff TAMI KEELE slipped and fell on a wet and/or slippery substance
9 at Defendant's property. Plaintiff TAMI KEELE sustained injuries and received medical treatment
10 for these injuries as a result of Defendant's negligence. Plaintiff GARRETT KEELE has asserted a
11 loss of consortium claim against Defendant.
12

13 **SUMMARY OF FACTS**

14
15 **Plaintiff Tami Keele has incurred approximately \$593,768.08 in medical specials as a**
16 **result of this incident.** Following the incident, Ms. Keele immediately initiated treatment with
17 Align Chiropractic and Dr. Jorg Rosler – a pain management specialist. Ms. Keele reported
18 complaints of severe low back pain. Due to the severity of Ms. Keele's symptoms, Dr. Rosler
19 referred her to Dr. Yevgeniy Khavkin – a neurosurgeon. Dr. Khavkin recommended for Ms. Keele
20 to undergo transforaminal interbody fusion with decompression at L4-5. Ms. Keele underwent this
21 surgery on January 11, 2016. Unfortunately, following her surgery, Ms. Keele suffered from a
22 severe infection of her surgical incision. Ms. Keele was required to undergo approximately seven
23 weeks of IV antibiotic medication to treat the infection.
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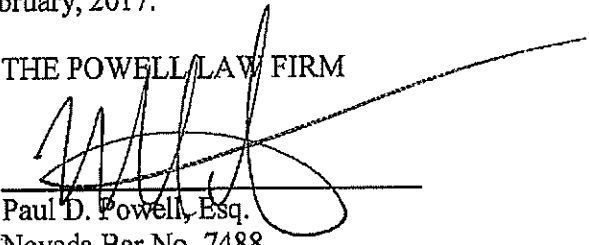
III. CONCLUSION

Plaintiffs request that this matter be exempt from arbitration as the damages sustained by Plaintiffs exceed \$50,000.00.

Pursuant to NRCP 11, I hereby certify this case to be within the exemption marked above and I am aware of the sanctions, which may be imposed against any attorney or party who without good cause or justification attempts to remove a case from the arbitration program.

DATED this 20th day of February, 2017.

THE POWELL LAW FIRM



Paul D. Powell, Esq.

Nevada Bar No. 7488

Michael A. Kristof, Esq.

Nevada Bar No. 7780

6785 W. Russell Road, Suite 210

Las Vegas, NV 89118

CERTIFICATE OF SERVICE

Pursuant to Nevada Rules of Civil Procedure 5 (b), I hereby certify that on the 21st
day of February, 2017, the **REQUEST FOR EXEMPTION FROM ARBITRATION** was
served via electronic service to the following counsel of record:

Lew Brandon, Esq.
Matthew Whittaker, Esq.
MORAN BRANDON BENDAVID MORAN
630 S. Fourth Street
Las Vegas, Nevada 89101

Attorneys for Defendant


An Employee of THE POWELL LAW FIRM

SUMM

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Attorneys for TAMI KEELE

DISTRICT COURT

CLARK COUNTY, NEVADA

TAMI KEELE,

Plaintiff,

vs.

ALBERTSONS COMPANIES, INC., a foreign
corporation, DOES I-X, and ROE
CORPORATIONS I-X, inclusive,

Defendants.

CASE NO. A-16-744521-C
DEPT. NO. XVI

SUMMONS

**NOTICE! YOU HAVE BEEN SUED, THE COURT MAY DECIDE AGAINST YOU WITHOUT
YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS, READ THE INFORMATION
BELOW.**

ALBERTSONS COMPANIES, INC.

TO THE DEFENDANT(S): A civil Complaint has been filed by the Plaintiff(s) against you for the relief set forth in the Complaint.

1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you, exclusive of the day of service, you must do the following:

a. File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, with the appropriate filing fee.

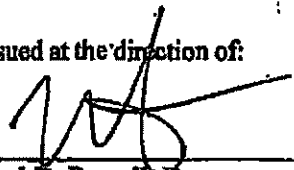
b. Serve a copy of your response upon the attorney whose name and address is shown below.

2. Unless you respond, your default will be entered upon application of the Plaintiff(s) and this Court may enter a judgment against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint

3. If you intend to seek the advise of an attorney in this matter, you should do so promptly so that your response may be filed on time.

1
2 4. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission
3 members and legislators, each have 45 days after service of this summons within which to file an answer or other
4 responsive pleading to the complaint.

5 Issued at the direction of:

6 
7 Paul D. Powell, Esq.
8 Nevada Bar No. 7488
9 Michael A. Kristof, Esq.
10 Nevada Bar No. 7780
11 6785 West Russell Road, Suite 210
12 Las Vegas, Nevada 89118
13 Attorneys for Plaintiff

CLERK OF THE COURT

ROXANA GOMEZ



OCT 06 2016

DEPUTY CLERK

DATE

County Courthouse

200 Lewis Avenue, 3rd Floor, Suite 3125

Las Vegas, Nevada 89155

DISTRICT COURT CIVIL COVER SHEET A-16-744521-C

County, Nevada
 Case No. _____
 (Assigned by Clerk's Office)

XVI

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): Tami Keele	Defendant(s) (name/address/phone): Albertsons Companies, Inc.
Attorney (name/address/phone): Paul Powell, Esq. - The Powell Law Firm 785 W. Russell Road, Suite 210 Las Vegas, Nevada 8911 702-728-5500	Attorney (name/address/phone):

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input checked="" type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

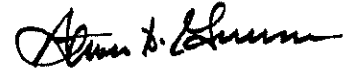
Business Court filings should be filed using the Business Court civil coversheet.

10/4/16

Date

Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

COMP

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Facsimile: (702) 728-5501

Attorneys for TAMI KEELE

DISTRICT COURT**CLARK COUNTY, NEVADA**

A-16-744521-C

TAMI KEELE,

Plaintiff,

vs.

ALBERTSONS COMPANIES, INC., a foreign
corporation, DOES I-X, and ROE
CORPORATIONS I-X, inclusive,

Defendants.

)
) CASE NO.
) DEPT. NO.

XVI

COMPLAINT

Plaintiff TAMI KEELE, by and through her attorney of record, PAUL D. POWELL, ESQ.,
of THE POWELL LAW FIRM, complains against Defendant ALBERTSONS COMPANIES, INC.,
as follows:

GENERAL ALLEGATIONS

1. Plaintiff TAMI KEELE (hereinafter "Plaintiff") is, and at all times mentioned herein,
was, a resident of the County of Clark, State of Nevada.
2. Defendant ALBERTSONS COMPANIES, INC. (hereinafter "Defendant") is, and at
all times mentioned herein, was, a foreign corporation, licensed to do business in the
County of Clark, State of Nevada.

- 1 3. The true names and capacities of the Defendants designated herein as Doe or Roe
2 Corporations are presently unknown to Plaintiff at this time, who therefore sues said
3 Defendants by such fictitious names. When the true names and capacities of these
4 Defendants are ascertained, Plaintiff will amend this Complaint accordingly.
- 5 4. At all times pertinent, Defendants were agents, servants, employees or joint
6 venturers of every other Defendant herein, and at all times mentioned herein were
7 acting within the scope and course of said agency, employment, or joint venture,
8 with knowledge and permission and consent of all other named Defendants.
- 9 5. On July 20, 2015 in Clark County, Nevada, Plaintiff was lawfully on the Defendant's
10 property (hereinafter "Property") located at 1001 S. Rainbow Boulevard, Las Vegas,
11 Nevada 89145.
- 12 6. Defendant maintained and was in control of the Property located at 1001 S. Rainbow
13 Boulevard, Las Vegas, Nevada 89145.
- 14 7. Defendant knew, or reasonably should have known, that the Property contained a
15 dangerous condition, specifically a wet and/or slippery substance on the floor of the
16 Property (hereinafter "dangerous condition").
- 17 8. Defendant failed to place signs, caution, warn, or otherwise make safe, the dangerous
18 condition existing on or about the Property.
- 19 9. Defendant should have warned or otherwise made safe the dangerous condition
20 because that condition was non-obvious to Plaintiff.
- 21 10. Defendant negligently, carelessly and recklessly maintained and allowed the
22 dangerous condition to exist.

- 1 11. As a direct and proximate result of the negligence of Defendant, Plaintiff sustained
2 injuries to Plaintiff's shoulders, back, bodily limbs, organs and systems, all or some
3 of which condition may be permanent and disabling, and all to Plaintiff's damage in
4 a sum in excess of \$10,000.00.
- 5 12. As a direct and proximate result of the negligence of Defendant, Plaintiff received
6 medical and other treatment for the aforementioned injuries, and that said services,
7 care and treatment are continuing and shall continue in the future, all to the damage
8 of Plaintiff.
- 9 13. As a direct and proximate result of the negligence of Defendant, Plaintiff has been
10 required to, and has limited occupational and recreational activities, which have
11 caused and shall continue to cause Plaintiff loss of earning capacity, lost wages,
12 physical impairment, mental anguish, and loss of enjoyment of life, in a presently
13 unascertainable amount.
- 14 14. As a direct and proximate result of the aforementioned negligence of all Defendants,
15 Plaintiff has been required to engage the services of an attorney, incurring attorney's
16 fees and costs to bring this action.

FIRST CAUSE OF ACTION

- 17 15. Plaintiff incorporates paragraphs 1 through 14 of the Complaint as though said
18 paragraphs were fully set forth herein.
- 19 16. Defendant owed Plaintiff a duty of care to warn Plaintiff of the non-obvious and
20 dangerous condition.
- 21 17. Defendant breached this duty of care by failing to place caution signs, or otherwise
22 failing to warn Plaintiff of the dangerous, non-obvious condition.

1 18. Defendant failed to take adequate steps to either remedy the dangerous condition, or
2 through their own negligence caused the dangerous condition to be present thus
3 causing damage and injury to Plaintiff.

4
5 19. As a direct and proximate result of the negligence of Defendant, Plaintiff has been
6 damaged in an amount in excess of \$10,000.00.

7 **SECOND CAUSE OF ACTION**

8 20. Plaintiff incorporates paragraphs 1 through 19 of the Complaint as though said
9 paragraphs were fully set forth herein.

10
11 21. The actions described herein have constituted negligence per se by Defendant, and
12 Plaintiff has been damaged as a direct and proximate result thereof in an amount in
13 excess of \$10,000.00.

14 WHEREFORE, Plaintiff expressly reserves the right to amend this Complaint prior to or at
15 the time of trial of this action, to insert those items of damage not yet fully ascertainable, prays
16 judgment against all Defendants, and each of them, as follows:

- 17
18 1. For general damages sustained by Plaintiff in an amount in excess of \$10,000.00.;
- 19 2. For special damages sustained by Plaintiff in an amount in excess of \$10,000.00;
- 20 3. For reasonable attorney's fees and costs;

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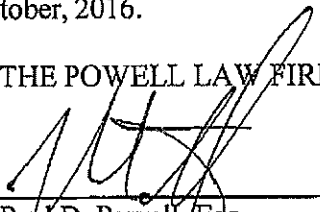
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4. For interest at the statutory rate; and
5. For such other further relief as the Court deems just and proper.

DATED this 4th day of October, 2016.

THE POWELL LAW FIRM



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Facsimile: (702) 728-5501

Attorneys for TAMI KEELE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

TAMI KEELE,	)	A-16-744521-C
	)	CASE NO.
Plaintiff,	)	DEPT. NO. XVI
vs.)	
)	
ALBERTSONS COMPANIES, INC., a foreign	)	<u>INITIAL APPEARANCE AND FEE</u>
corporation, DOES I-X, and ROE	)	<u>DISCLOSURE</u>
CORPORATIONS I-X, inclusive,)	
)	
Defendants.)	

Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for the parties appearing in the above-entitled action as indicated below:

TAMI KEELE: \$270.00

TOTAL: \$270.00

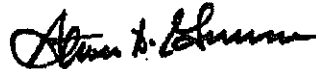
DATED this 4th day of October, 2016.

THE POWELL LAW FIRM

/s/ Michael Kristof

Paul D. Powell, Esq.
Nevada Bar No. 7488
Michael A. Kristof, Esq.
Nevada Bar No. 778

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CLERK OF THE COURT

1 **ACOMP**
2 Paul D. Powell, Esq.
3 Nevada Bar No. 7488
4 Michael A. Kristof, Esq.
5 Nevada Bar No. 7780
6 The Powell Law Firm
7 6785 W. Russell Road, Suite 210
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11 Facsimile: (702) 728-5501

12 Attorneys for TAMI KEELE

13 **DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 TAMI KEELE, individually, GARRET KEELE,)	
16 individually,	)	CASE NO. A-16-744521-C
	)	DEPT. NO. XVI
17 Plaintiff,)	
18 vs.)	
	)	<u>AMENDED COMPLAINT</u>
19 ALBERTSONS COMPANIES, INC., a foreign)	
20 corporation, DOES I-X, and ROE)	
21 CORPORATIONS I-X, inclusive,)	
)	
22 Defendants.)	

23 Plaintiffs TAMI KEELE and GARRET KEELE, by and through her attorney of record,
24 PAUL D. POWELL, ESQ., of THE POWELL LAW FIRM, complain against Defendant
25 ALBERTSONS COMPANIES, INC., as follows:

26 **GENERAL ALLEGATIONS**

- 27 1. Plaintiffs TAMI KEELE (hereinafter "Plaintiff Tami") and GARRET KEELE
28 (hereinafter "Plaintiff Garret") are, and at all times mentioned herein, were,
residents of the County of Clark, State of Nevada.
2. Plaintiffs were husband and wife at the time of the matters complained of herein.

- 1 3. Defendant ALBERTSONS COMPANIES, INC. (hereinafter "Defendant") is, and at
2 all times mentioned herein, was, a foreign corporation, licensed to do business in the
3 County of Clark, State of Nevada.
- 4 4. The true names and capacities of the Defendants designated herein as Doe or Roe
5 Corporations are presently unknown to Plaintiffs at this time, who therefore sue said
6 Defendants by such fictitious names. When the true names and capacities of these
7 Defendants are ascertained, Plaintiffs will amend this Complaint accordingly..
- 8 5. At all times pertinent, Defendants were agents, servants, employees or joint
9 venturers of every other Defendant herein, and at all times mentioned herein were
10 acting within the scope and course of said agency, employment, or joint venture,
11 with knowledge and permission and consent of all other named Defendants.
- 12 6. On July 20, 2015 in Clark County, Nevada, Plaintiff Tami was lawfully on the
13 Defendant's property (hereinafter "Property") located at 1001 S. Rainbow
14 Boulevard, Las Vegas, Nevada 89145.
- 15 7. Defendant maintained and was in control of the Property located at 1001 S. Rainbow
16 Boulevard, Las Vegas, Nevada 89145.
- 17 8. Defendant knew, or reasonably should have known, that the Property contained a
18 dangerous condition, specifically a wet and/or slippery substance on the floor of the
19 Property (hereinafter "dangerous condition").
- 20 9. Defendant failed to place signs, caution, warn, or otherwise make safe, the dangerous
21 condition existing on or about the Property.
- 22 10. Defendant should have warned or otherwise made safe the dangerous condition
23 because that condition was non-obvious to Plaintiff Tami.
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- 1 11. Defendant negligently, carelessly and recklessly maintained and allowed the
2 dangerous condition to exist.
- 3 12. As a direct and proximate result of the negligence of Defendant, Plaintiff Tami
4 sustained injuries to Plaintiff's shoulders, back, bodily limbs, organs and systems, all
5 or some of which condition may be permanent and disabling, and all to Plaintiff's
6 damage in a sum in excess of \$10,000.00.
- 7 13. As a direct and proximate result of the negligence of Defendant, Plaintiff Tami
8 received medical and other treatment for the aforementioned injuries, and that said
9 services, care and treatment are continuing and shall continue in the future, all to the
10 damage of Plaintiff.
- 11 14. As a direct and proximate result of the negligence of Defendant, Plaintiff Tami as
12 been required to, and has limited occupational and recreational activities, which have
13 caused and shall continue to cause Plaintiff loss of earning capacity, lost wages,
14 physical impairment, mental anguish, and loss of enjoyment of life, in a presently
15 unascertainable amount.
- 16 15. As a direct and proximate result of the negligence of Defendant, Plaintiff Garret has
17 lost the support, companionship, relationship, and society i.e. consortium, of his
18 spouse, Plaintiff Tami.
- 19 16. As a direct and proximate result of the aforementioned negligence of all Defendants,
20 Plaintiffs, and both of them has been required to engage the services of an attorney,
21 incurring attorney's fees and costs to bring this action.
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FIRST CAUSE OF ACTION

17. Plaintiffs incorporate paragraphs 1 through 16 of the Complaint as though said paragraphs were fully set forth herein.
18. Defendant owed Plaintiff Tami a duty of care to warn her of the non-obvious and dangerous condition.
19. Defendant breached this duty of care by failing to place caution signs, or otherwise failing to warn Plaintiff Tami of the dangerous, non-obvious condition.
20. Defendant failed to take adequate steps to either remedy the dangerous condition, or through their own negligence caused the dangerous condition to be present thus causing damage and injury to Plaintiff Tami.
21. As a direct and proximate result of the negligence of Defendant, Plaintiff Tami has been damaged in an amount in excess of \$10,000.00.

SECOND CAUSE OF ACTION

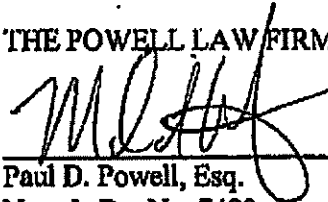
22. Plaintiffs incorporate paragraphs 1 through 21 of the Complaint as though said paragraphs were fully set forth herein.
23. Because of the Defendant's actions and/or failure to act herein, Defendant Garret has lost the support, companionship, relationship, and soccoity i.e. consortium of his wife, Plaintiff Tami.
24. As a direct and proximate result of the negligence of Defendant, Plaintiff Garret has been damaged in an amount in excess of \$10,000.00.

WHEREFORE, Plaintiffs, and each of them expressly reserves the right to amend this Complaint prior to or at the time of trial of this action, to insert those items of damage not yet fully ascertainable, prays judgment against all Defendants, and each of them, as follows:

- 1 1. For general damages sustained by Plaintiffs in an amount in excess of \$10,000.00.;
- 2 2. For special damages sustained by Plaintiffs in an amount in excess of \$10,000.00;
- 3 3. For reasonable attorney's fees and costs;
- 4 4. For interest at the statutory rate; and
- 5 5. For such other further relief as the Court deems just and proper.

6 DATED this 7th day of December, 2016.

7 THE POWELL LAW FIRM

8 

9 Paul D. Powell, Esq.

10 Nevada Bar No. 7488

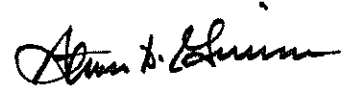
11 Michael A. Kristof, Esq.

12 Nevada Bar No. 7780

13 6785 W. Russell Road, Suite 210

14 Las Vegas, NV 89118

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CLERK OF THE COURT

ACOMP

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Attorneys for TAMI KEELE

DISTRICT COURT**CLARK COUNTY, NEVADA**

TAMI KEELE, individually, GARRET KEELE,)	
individually,	)	CASE NO. A-16-744521-C
	)	DEPT. NO. XVI
Plaintiff,)	
vs.)	
	)	<u>SECOND AMENDED COMPLAINT</u>
ALBERTSONS, LLC, a Delaware limited liability)	
company, DOES I-X, and ROE CORPORATIONS)	
I-X, inclusive,)	
)	
Defendants.)	

Plaintiffs TAMI KEELE and GARRET KEELE, by and through her attorney of record,
PAUL D. POWELL, ESQ., of THE POWELL LAW FIRM, complain against Defendant
ALBERTSONS, LLC, as follows:

GENERAL ALLEGATIONS

- Plaintiffs TAMI KEELE (hereinafter "Plaintiff Tami") and GARRET KEELE (hereinafter "Plaintiff Garret") are, and at all times mentioned herein, were, residents of the County of Clark, State of Nevada.
- Plaintiffs were husband and wife at the time of the matters complained of herein.

3. Defendant ALBERTSONS, LLC (hereinafter "Defendant") is, and at all times mentioned herein, was, a Delaware limited liability company, licensed to do business in the County of Clark, State of Nevada.
4. The true names and capacities of the Defendants designated herein as Doe or Roe Corporations are presently unknown to Plaintiffs at this time, who therefore sue said Defendants by such fictitious names. When the true names and capacities of these Defendants are ascertained, Plaintiffs will amend this Complaint accordingly.
5. At all times pertinent, Defendants were agents, servants, employees or joint venturers of every other Defendant herein, and at all times mentioned herein were acting within the scope and course of said agency, employment, or joint venture, with knowledge and permission and consent of all other named Defendants.
6. On July 20, 2015 in Clark County, Nevada, Plaintiff Tami was lawfully on the Defendant's property (hereinafter "Property") located at 1001 S. Rainbow Boulevard, Las Vegas, Nevada 89145.
7. Defendant maintained and was in control of the Property located at 1001 S. Rainbow Boulevard, Las Vegas, Nevada 89145.
8. Defendant knew, or reasonably should have known, that the Property contained a dangerous condition, specifically a wet and/or slippery substance on the floor of the Property (hereinafter "dangerous condition").
9. Defendant failed to place signs, caution, warn, or otherwise make safe, the dangerous condition existing on or about the Property.
10. Defendant should have warned or otherwise made safe the dangerous condition because that condition was non-obvious to Plaintiff Tami.

- 1 11. Defendant negligently, carelessly and recklessly maintained and allowed the
2 dangerous condition to exist.
- 3 12. As a direct and proximate result of the negligence of Defendant, Plaintiff Tami
4 sustained injuries to Plaintiff's shoulders, back, bodily limbs, organs and systems, all
5 or some of which condition may be permanent and disabling, and all to Plaintiff's
6 damage in a sum in excess of \$10,000.00.
- 7 13. As a direct and proximate result of the negligence of Defendant, Plaintiff Tami
8 received medical and other treatment for the aforementioned injuries, and that said
9 services, care and treatment are continuing and shall continue in the future, all to the
10 damage of Plaintiff.
- 11 14. As a direct and proximate result of the negligence of Defendant, Plaintiff Tami as
12 been required to, and has limited occupational and recreational activities, which have
13 caused and shall continue to cause Plaintiff loss of earning capacity, lost wages,
14 physical impairment, mental anguish, and loss of enjoyment of life, in a presently
15 unascertainable amount.
- 16 15. As a direct and proximate result of the negligence of Defendant, Plaintiff Garret has
17 lost the support, companionship, relationship, and society i.e. consortium, of his
18 spouse, Plaintiff Tami.
- 19 16. As a direct and proximate result of the aforementioned negligence of all Defendants,
20 Plaintiffs, and both of them has been required to engage the services of an attorney,
21 incurring attorney's fees and costs to bring this action.
- 22
- 23
- 24
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- 27
- 28

FIRST CAUSE OF ACTION

17. Plaintiffs incorporate paragraphs 1 through 16 of the Complaint as though said paragraphs were fully set forth herein.

18. Defendant owed Plaintiff Tami a duty of care to warn her of the non-obvious and dangerous condition.

19. Defendant breached this duty of care by failing to place caution signs, or otherwise failing to warn Plaintiff Tami of the dangerous, non-obvious condition.

20. Defendant failed to take adequate steps to either remedy the dangerous condition, or through their own negligence caused the dangerous condition to be present thus causing damage and injury to Plaintiff Tami.

21. As a direct and proximate result of the negligence of Defendant, Plaintiff Tami has been damaged in an amount in excess of \$10,000.00.

SECOND CAUSE OF ACTION

22. Plaintiffs incorporate paragraphs 1 through 21 of the Complaint as though said paragraphs were fully set forth herein.

23. Because of the Defendant's actions and/or failure to act herein, Defendant Garret has lost the support, companionship, relationship, and socceity i.e. consortium of his wife, Plaintiff Tami.


24. As a direct and proximate result of the negligence of Defendant, Plaintiff Garret has been damaged in an amount in excess of \$10,000.00.

WHEREFORE, Plaintiffs, and each of them expressly reserves the right to amend this Complaint prior to or at the time of trial of this action, to insert those items of damage not yet fully ascertainable, prays judgment against all Defendants, and each of them, as follows:

- 1 1. For general damages sustained by Plaintiffs in an amount in excess of \$10,000.00.;
- 2 2. For special damages sustained by Plaintiffs in an amount in excess of \$10,000.00;
- 3 3. For reasonable attorney's fees and costs;
- 4 4. For interest at the statutory rate; and
- 5 5. For such other further relief as the Court deems just and proper.

7 DATED this 26th day of January, 2017.

8 THE POWELL LAW FIRM

9 
10 _____

11 Paul D. Powell, Esq.
12 Nevada Bar No. 7488

13 Michael A. Kristof, Esq.

14 Nevada Bar No. 7780

15 6785 W. Russell Road, Suite 210

16 Las Vegas, NV 89118

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1 ANAC
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(702) 384-6568 - *facsimile*
7 *l.brandon@moranlawfirm.com*
Attorneys for Defendant,
8 ALBERTSONS, LLC


CLERK OF THE COURT

9
10 DISTRICT COURT
CLARK COUNTY, NEVADA

11 TAMI KEELE, individually, GARRET
12 KEELE, individually,

CASE NO.: A-16-744521-C
DEPT. NO.: XVI

13 Plaintiff,

14 v.

15 ALBERTSONS LLC, a Delaware limited
16 liability company, DOES I – X, and ROE
CORPORATIONS I - X, inclusive,

17 Defendants.
18

19 **DEFENDANT, ALBERTSONS, LLC'S ANSWER TO**
20 **PLAINTIFFS' SECOND AMENDED COMPLAINT**

21 COMES NOW, Defendant, ALBERTSONS, LLC, by and through its undersigned
22 attorneys, LEW BRANDON, JR., ESQ. and MATTHEW WHITTAKER, ESQ. of MORAN
23 BRANDON BENDAVID MORAN, and hereby answers the Plaintiffs' Second Amended
24 Complaint on file herein as follows:

25 1. Answering Paragraphs 1, 2, 4, 5, 6, 7, 9 and 10 of Plaintiffs' Second Amended
26 Complaint on file herein, Defendant is without sufficient knowledge or information to form a
27 belief as to the truth or falsity of the said allegations and therefore denies same.
28



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2. Answering Paragraph 3 of Plaintiffs' Second Amended Complaint on file herein, Defendant admits the allegations contained therein.

3. Answering Paragraphs 8, 11, 12, 13, 14, 15 and 16 of Plaintiffs' Second Amended Complaint on file herein, Defendant denies the allegations contained therein.

FIRST CAUSE OF ACTION

4. Answering Paragraph 17 of Plaintiffs' Second Amended Complaint on file herein, Defendant repeats and realleges each and every allegation in Paragraphs 1 through 16 as fully set forth herein.

5. Answering Paragraphs 18 and 19 of Plaintiffs' Second Amended Complaint on file herein, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the said allegations and therefore denies same.

6. Answering Paragraphs 20 and 21 of Plaintiffs' Second Amended Complaint on file herein, Defendant denies the allegations contained therein.

SECOND CAUSE OF ACTION

7. Answering Paragraph 22 of Plaintiffs' Second Amended Complaint on file herein, Defendant repeats and realleges each and every allegation in Paragraphs 1 through 21 as fully set forth herein.

8. Answering Paragraphs 23 and 24 of Plaintiffs' Second Amended Complaint on file herein, Defendant denies the allegations contained therein.

9. Any allegation not addressed herein is thereby denied.

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///

///



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AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiffs' Second Amended Complaint fails to state a claim against Defendant upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Defendant alleges that at the time and place alleged in Plaintiffs' Second Amended Complaint, Plaintiffs did not exercise ordinary care, caution or prudence for the protection of themselves and any damages complained of by Plaintiffs in their Second Amended Complaint, were directly or proximately caused or contributed to by the fault, failure to act, carelessness and negligence of Plaintiffs.

THIRD AFFIRMATIVE DEFENSE

Defendant alleges that the Plaintiffs assumed whatever risk or hazard existed at the time of this incident, if any there were, and was therefore responsible for the alleged damage suffered and further that the Plaintiffs were guilty of negligence of their own acts which caused or contributed to by the fault, failure to act, carelessness or negligence of Plaintiffs.

FOURTH AFFIRMATIVE DEFENSE

All the risks and dangers involved in the factual situation described in Plaintiffs' Second Amended Complaint, if any there were, were open, obvious and known to the Plaintiffs and by reason thereof, Plaintiffs assumed the risks and dangers inherent thereto.

FIFTH AFFIRMATIVE DEFENSE

Defendant alleges that the negligence of the Plaintiffs exceeded that of the Defendant, and that the Plaintiffs are thereby barred from recovery.

///



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1 **SIXTH AFFIRMATIVE DEFENSE**

2 Pursuant to NRCP 11, as amended: All possible affirmative defenses may not have been
3 alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the
4 filing of Defendant's Answer, and therefore, Defendant reserves the right to amend this Answer
5 to allege additional affirmative defenses if subsequent investigation warrants.
6

7 **SEVENTH AFFIRMATIVE DEFENSE**

8 The damages sustained by Plaintiffs, if any, were caused by the acts of third persons
9 who were not agents, servants or employees of this answering Defendant and who were not
10 acting on behalf of this answering Defendant in any manner or form and as such, this Defendant
11 is not liable in any matter to the Plaintiffs.
12

13 **EIGHTH AFFIRMATIVE DEFENSE**

14 Defendant at all times relevant to the allegations contained in Plaintiffs' Second
15 Amended Complaint, acted with due care and circumspection in the performance of any and all
16 duties imposed on it.
17

18 **NINTH AFFIRMATIVE DEFENSE**

19 That it has been necessary of the Defendant to employ the services of an attorney to
20 defend the action and a reasonable sum should be allowed Defendant for attorney's fees,
21 together with costs of suit incurred herein.
22

23 **TENTH AFFIRMATIVE DEFENSE**

24 Plaintiffs have failed to mitigate their alleged damages, and, to the extent of such failure
25 to mitigate any damages awarded to Plaintiffs, should be reduced accordingly.
26

27 **ELEVENTH AFFIRMATIVE DEFENSE**

28 Plaintiffs' claims are barred by applicable statutes of limitations.



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TWELFTH AFFIRMATIVE DEFENSE

Defendant objects as to authentication, foundation and genuineness of all of Plaintiffs' medical providers and documents listed or presented by Plaintiffs.

WHEREFORE, Defendant, ALBERTSONS, LLC, prays as follows:

1. That Plaintiffs take nothing by way of their Second Amended Complaint on file herein;
2. For reasonable attorney's fees and costs of suit incurred herein; and
3. For such other and further relief as the Court may deem just and proper in the premises.

DATED this 31st day of January, 2017.

MORAN BRANDON BENDAVID MORAN

/s/ Lew Brandon, Jr., Esq.

LEW BRANDON, JR., ESQ.

Nevada Bar No. 5880

MATTHEW WHITTAKER, ESQ.

Nevada Bar No. 13281

630 S. Fourth Street

Las Vegas, Nevada 89101

Attorneys for Defendant,

ALBERTSONS, LLC.



MORAN BRANDON
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that on the 31st day of January, 2017, I served the foregoing **DEFENDANT, ALBERTSONS, LLC'S ANSWER TO PLAINTIFFS' SECOND AMENDED COMPLAINT** via the Court's electronic filing and service systems to all parties on the current service list.

PAUL D. POWELL, ESQ.

Nevada Bar No. 7488

MICHAEL A. KRISTOF, ESQ.

Nevada Bar No. 7780

The Powell Law Firm

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Attorneys for Plaintiffs,

TAMI KEELE and

GARRET KEELE

/s/ Darcy Flores-Laguna

An Employee of Moran Brandon Bendavid Moran



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BENDAVID MORAN
ATTORNEYS AT LAW

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1 **CONS**

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3 Nevada Bar No. 5880

4 **MATTHEW WHITTAKER, ESQ.**

5 Nevada Bar No. 13281

6 **MORAN BRANDON BENDAVID MORAN**

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9 (702) 384-8424

10 (702) 384-6568 - *facsimile*

11 *l.brandon@moranlawfirm.com*

12 Attorneys for Defendant,

13 **ALBERTSONS, LLC**

14 **DISTRICT COURT**
15 **CLARK COUNTY, NEVADA**

16 TAMI KEELE, individually, GARRET
17 KEELE, individually,

18 Plaintiff,

19 v.

20 ALBERTSONS LLC, a Delaware limited
21 liability company, DOES I – X, and ROE
22 CORPORATIONS I - X, inclusive,

23 Defendants.

CASE NO.: A-16-744521-C
DEPT. NO.: XVI

24 **CONSENT TO SERVICE BY ELECTRONIC MEANS THROUGH E-FILING**
25 **PROGRAM**

26 The undersigned parties hereby consent to service of documents by electronic means
27 through the Court's e-filing program on behalf of the following parties: ALBERTSONS, LLC.

28 Documents served by electronic means must be transmitted to the following persons at
the e-mail addresses listed: l.brandon@moranlawfirm.com; d.nocedal@moranlawfirm.com.

It is my understanding that the attachments may be transmitted to the program in any
format and will be converted to a PDF file before service is effected.



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BENDAVID MORAN
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1 The undersigned also acknowledges that this Consent does not require service by
2 electronic means unless the serving party elects to do so.

3 DATED this 31st day of January, 2017.

4 **MORAN BRANDON BENDAVID MORAN**

5 /s/ Lew Brandon, Jr., Esq.

6 **LEW BRANDON, JR., ESQ.**

7 Nevada Bar No. 5880

8 **MATTHEW WHITTAKER, ESQ.**

9 Nevada Bar No. 13281

630 S. Fourth Street

10 Las Vegas, Nevada 89101

Attorneys for Defendant,

11 ALBERTSONS, LLC.

12 **CERTIFICATE OF SERVICE**

13 Pursuant to NRCP 5(b), I hereby certify that on the 31st day of January, 2017, I served
14 the foregoing **CONSENT TO SERVICE BY ELECTRONIC MEANS THROUGH E-**
15 **FILING PROGRAM** via the Court's electronic filing and service systems to all parties on the
16 current service list.

17 **PAUL D. POWELL, ESQ.**

18 Nevada Bar No. 7488

19 **MICHAEL A. KRISTOF, ESQ.**

20 Nevada Bar No. 7780

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22 paul@tplf.com

23 Attorneys for Plaintiffs,

24 TAMI KEELE and

25 GARRET KEELE

/s/ Darcy Flores-Laguna

26 An Employee of Moran Brandon Bendavid Moran



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BENDAVID MORAN
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1 **IAFD**
2 **LEW BRANDON, JR., ESQ.**
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4 **MATTHEW WHITTAKER, ESQ.**
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11 *l.brandon@moranlawfirm.com*
12 Attorneys for Defendant,
13 **ALBERTSONS, LLC**


CLERK OF THE COURT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

11 TAMI KEELE, individually, GARRET
12 KEELE, individually,

CASE NO.: A-16-744521-C
DEPT. NO.: XVI

13 Plaintiff,

14 v.

15 ALBERTSONS LLC, a Delaware limited
16 liability company, DOES I – X, and ROE
17 CORPORATIONS I - X, inclusive,

18 Defendants.

INITIAL APPEARANCE FEE DISCLOSURE
(NRS CHAPTER 19)

20 Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted
21 for parties appearing in the above-entitled action as indicated below:
22

23 1. ALBERTSONS, LLC., Defendant\$223.00

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26 ///

27 ///

28 ///



MORAN BRANDON
BENDAVID MORAN
ATTORNEYS AT LAW

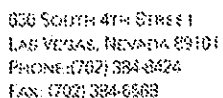
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FAX: (702) 384-6568

DATED this 31st day of January, 2017.

/s/ Lew Brandon, Jr., Esq.
LEW BRANDON, JR., ESQ.
Nevada Bar No. 5880
MATTHEW WHITTAKER, ESQ.
Nevada Bar No. 13281
630 S. Fourth Street
Las Vegas, Nevada 89101
Attorneys for Defendant,
ALBERTSONS, LLC.

Pursuant to NRCp 5(b), I hereby certify that on the 31st day of January, 2017, I served the foregoing **INITIAL APPEARANCE FEE DISCLOSURE** via the Court's electronic filing and service systems to all parties on the current service list.

/s/ Darcy Flores-Laguna
An Employee of Moran Brandon Bendavid Moran



Allen D. Larson
CLERK OF THE COURT

1 action.

2 DATED this 31st day of January, 2017.

3 MORAN BRANDON BENDAVID MORAN

4 /s/ Lew Brandon, Jr., Esq.

5 LEW BRANDON, JR., ESQ.

6 Nevada Bar No. 5880

7 MATTHEW WHITTAKER, ESQ.

8 Nevada Bar No. 13281

9 630 S. Fourth Street

10 Las Vegas, Nevada 89101

11 Attorneys for Defendant,

12 ALBERTSONS, LLC.

13 **CERTIFICATE OF SERVICE**

14 Pursuant to NRCP 5(b), I hereby certify that on the 31st day of January, 2017, I served
15 the foregoing **DEMAND FOR JURY TRIAL** via the Court's electronic filing and service
16 systems to all parties on the current service list.

17 **PAUL D. POWELL, ESQ.**

18 Nevada Bar No. 7488

19 **MICHAEL A. KRISTOF, ESQ.**

20 Nevada Bar No. 7780

21 **The Powell Law Firm**

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26 paul@tplf.com

27 Attorneys for Plaintiffs,

28 TAMI KEELE and

GARRET KEELE

/s/ Darcy Flores-Laguna

An Employee of Moran Brandon Bendavid Moran



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11 *l.brandon@moranlawfirm.com*
12 Attorneys for Defendant,
13 **ALBERTSONS, LLC**

Alvin D. Quinn
CLERK OF THE COURT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

11 TAMI KEELE, individually, GARRET
12 KEELE, individually,
13 Plaintiff,

CASE NO.: A-16-744521-C
DEPT. NO.: XVI

14 v.

15 ALBERTSONS LLC, a Delaware limited
16 liability company, DOES I – X, and ROE
17 CORPORATIONS I - X, inclusive,

18 Defendants.

DISCLOSURE STATEMENT PURSUANT TO NRCP 7.1

20 The undersigned counsel of record for Defendant, ALBERTSONS, LLC., A
21 DELAWARE LIMITED LIABILITY COMPANY hereby certifies that to their knowledge,
22 ALBERTSONS, LLC.'s parent company is Albertson's Holding, LLC., a Delaware limited
23 liability company, and is not publically traded.
24

25 ///

26 ///

27 ///



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ATTORNEYS AT LAW

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FAX: (702) 384-6568

1 There are no other known interested parties other than those identified.

2 DATED this 31st day of January, 2017.

3 **MORAN BRANDON BENDAVID MORAN**

4 /s/ Lew Brandon, Jr., Esq.

5 **LEW BRANDON, JR., ESQ.**

6 Nevada Bar No. 5880

7 **MATTHEW WHITTAKER, ESQ.**

8 Nevada Bar No. 13281

9 630 S. Fourth Street

10 Las Vegas, Nevada 89101

11 Attorneys for Defendant,

12 ALBERTSONS, LLC.

13 **CERTIFICATE OF SERVICE**

14 Pursuant to NRCP 5(b), I hereby certify that on the 31st day of January, 2017, I served
15 the foregoing **DISCLOSURE STATEMENT PURSUANT TO NRCP 7.1** via the Court's
16 electronic filing and service systems to all parties on the current service list.

17 **PAUL D. POWELL, ESQ.**

18 Nevada Bar No. 7488

19 **MICHAEL A. KRISTOF, ESQ.**

20 Nevada Bar No. 7780

21 **The Powell Law Firm**

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27 Attorneys for Plaintiffs,

28 TAMI KEELE and

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/s/ Darcy Flores-Laguna

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